

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JEREMIAH CROSS,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-24-699-D
)	
JIM HYNES et al.,)	
)	
Defendants.)	

REPORT AND RECOMMENDATION

Plaintiff brought this action alleging violations of his constitutional rights. Doc. 1.¹ Chief United States District Judge Timothy D. DeGiusti referred the matter to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B). Doc. 3. The undersigned recommends the Court dismiss the complaint without prejudice based on Plaintiff's failure to follow the Court's rules and orders.

I. Discussion.

The Court ordered Plaintiff to submit his complaint on the proper form and to either pay the filing fee or submit an in forma pauperis (IFP) application to the Court by August 1, 2024. Doc. 4. The undersigned warned Plaintiff that

¹ Citations to a court document are to its electronic case filing designation and pagination. Except for capitalization, quotations are verbatim unless otherwise indicated.

a failure to timely comply with the Order could result in the dismissal of the action. *Id.* at 1-2. But Plaintiff has not responded to the Court's Order.

The Clerk of Court sent the order and the necessary forms to comply with the Court's order to Plaintiff's last known address. *Id.* (staff notes). And the Postmaster has not returned the documents to the Court. *See* LCvR5.4 ("Papers sent by the court will be deemed delivered if sent to the last known address given to the court.").


Plaintiff appears pro se, but he must follow the same rules as any other litigant. *See Davis v. Kan. Dep't of Corrs.*, 507 F.3d 1246, 1247 n.1 (10th Cir. 2007) (holding a pro se litigant "to the same rules of procedure as other litigants"). The undersigned finds that Plaintiff's failure to comply with this Court's order and rules, together with the Court's inherent power to manage judicial resources, warrants dismissal of this action without prejudice. *See* Fed. R. Civ. P. 41(b) (instructing that a court may dismiss an action if the plaintiff "fails to prosecute or to comply with these rules or a court order"); *see also Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1161 n.2 (10th Cir. 2007) (noting Rule 41(b) permits courts "to dismiss actions sua sponte for a plaintiff's failure to . . . comply with the rules of civil procedures or court's orders").

II. Recommendation and notice of right to object.

For the reasons set forth above, the undersigned recommends the Court dismiss this action without prejudice.

The undersigned advises Plaintiff of his right to file an objection to this Report and Recommendation with the Clerk of this Court by September 2, 2024, in accordance with 28 U.S.C. § 636 and Federal Rule of Civil Procedure 72. The undersigned further advises Plaintiff that failure to make timely objection to this Report and Recommendation waives his right to appellate review of both factual and legal questions contained herein. *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991). This Report and Recommendation disposes of the issues referred to the undersigned Magistrate Judge in the captioned matter.

ENTERED this 12th day of August, 2024.



SUZANNE MITCHELL
UNITED STATES MAGISTRATE JUDGE